



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Retirement Systems

☒ **Preproposal Statement of Inquiry was filed as WSR 03-02-086; or**

☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**

☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**

☐ **Supplemental Notice to WSR _____**

☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject)

WAC 415-108-728, If I work concurrently in a PERS position and TRS position, which system will I be in?

WAC 415-112-155, If I work concurrently in a TRS position and PERS position, which system will I be in?

Hearing location(s):

Department of Retirement Systems
6835 Capitol Blvd.; Conference Room 115
Tumwater, Washington

Date: January 4, 2005 **Time:** 9:30 AM

Submit written comments to:

Leslie L. Saeger, Rules Coordinator
Department of Retirement Systems
P.O. Box 48380; Olympia, WA. 98504-8380
Email: leslies@drs.wa.gov
Fax: (360) 753-3166 by 5:00 p.m. on January 4, 2005

Assistance for persons with disabilities: Contact

Leslie L. Saeger, Rules Coordinator by December 23, 2004
TDD (360) 664-7291 TTY (360) 586-5450
Phone (360) 664-7291

Date of intended adoption: No sooner than January 5, 2004

(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This amendment pertains to Public Employees' Retirement System (PERS) members who work concurrently in some Teachers' Retirement System (TRS) positions. Such members may have their TRS service reported in PERS when certain criteria are met.

Reasons supporting proposal:

Statutory authority for adoption: RCW 41.50.050(5)

Statute being implemented:

Chapter 41.32 RCW and 41.40 RCW

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

CODE REVISER USE ONLY

Filed with the Office of the Code Reviser
November 22, 2004

WSR 04-24-014

DATE

November 19, 2004

NAME (type or print)

Leslie L. Saeger

SIGNATURE

TITLE

Rules and Contacts Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)

Department of Retirement Systems

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

| Name | Office Location | Phone |
|-----------------------------------|--------------------------------------|----------------|
| Drafting..... Leslie Saeger | PO Box 48380, Olympia, WA 98504-8380 | (360) 664-7291 |
| Implementation.... Dorothy Bailey | PO Box 48380, Olympia, WA 98504-8380 | (360) 664-7291 |
| Enforcement.....Dorothy Bailey | PO Box 48380, Olympia, WA 98504-8380 | (360) 664-7291 |

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

These rules have no effect on businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain:

The Department of Retirement Systems is not one of the named departments in this section (RCW 34.05.328)

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-108-728 If I work concurrently in ((~~both~~)) a PERS position and TRS position ((~~during the same school year~~)), which system will I be in? (1) If you work concurrently in ((~~both~~)) a PERS and TRS position ((~~during the same year~~)), your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either PERS or TRS according to the following table:

Former TRS Plan 1 Members ^{1/}

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|--|-------------------------------------|---|
| A substitute or less than full-time teaching position and a PERS-eligible position | Same employer | PERS - for both positions. |
| | Separate TRS employers | PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS. |
| | A TRS employer and non-TRS employer | PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, you must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |
| A full-time teaching position and an eligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. |

| | | |
|--|-------------------------------------|---|
| | A TRS employer and non-TRS employer | <p>You must elect to:</p> <ol style="list-style-type: none"> 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |
|--|-------------------------------------|---|

TRS Plan 1 Members

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|---|-------------------------------------|--|
| A full-time or less than full-time TRS position and an eligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. |
| | A TRS employer and non-TRS employer | <p>You must elect either to:</p> <ol style="list-style-type: none"> 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for PERS position. |
| A full-time or less than full-time TRS position and an ineligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. |
| | A TRS employer and non-TRS employer | TRS - for the TRS position only; your ineligible PERS position is not reportable. |

TRS Plan 2 Members

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|--|-------------------------------------|--|
| An eligible TRS position and an ineligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for TRS position only; your ineligible PERS position is not reported. |
| | A TRS employer and non-TRS employer | TRS - for TRS position only; your ineligible PERS position is not reported. |
| An eligible TRS position and an eligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. ^{3/} |
| | A TRS employer and non-TRS employer | <p>You must elect either to:</p> <ol style="list-style-type: none"> 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |

PERS Members

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|----------------------------------|---------------------|--------------------------------|
|----------------------------------|---------------------|--------------------------------|

| | | |
|--|-------------------------------------|---|
| An eligible PERS position and an ineligible TRS or substitute position | Same employer | PERS - for both positions. |
| | Separate TRS employers | <p>PERS - for the PERS position only⁽¹⁾. <u>Your TRS service will not be reported unless you ((qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1)).</u></p> <p><u>If you elect to establish TRS membership, your employers will report you in TRS for both positions)) have met the eligibility criteria for TRS membership and choose to either:</u></p> <p><u>1. Have your TRS service reported in PERS for both positions⁽⁴⁾; or</u> <u>2. Establish TRS membership and have your service in both positions reported in TRS.</u> Any previously reported service credit and compensation in PERS will be transferred to TRS.</p> |
| | A TRS employer and non-TRS employer | <p>PERS - for the PERS position only. You will not be reported for the TRS position unless you ((elect)) <u>have met the eligibility criteria for TRS membership and choose to either:</u></p> <p>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</p> |

Neither TRS Nor PERS Member

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|--|------------------------------------|---|
| An ineligible TRS and an ineligible PERS position | Same employer | TRS - for both positions if the positions combined, qualify as an eligible position. |
| | Separate employers, TRS or non-TRS | Neither position reported. |
| A substitute teaching position and an ineligible PERS position | Same employer | Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140. |
| | Separate employers, TRS or non-TRS | Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140. |

^{1/} "Former TRS 1 member", as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same school year.

^{3/} EXAMPLE: A TRS 2 member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS 2.

EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

^{4/} This provision applies retroactively to July 1, 1996.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Member" - RCW 41.40.010.
- (e) "Membership" - RCW 41.40.023.
- (f) "Report" - WAC 415-108-010.
- (g) "Service" - RCW 41.40.010.

AMENDATORY SECTION (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

WAC 415-112-155 If I work concurrently in a TRS position and PERS position, which system will I be in? (1) If you work concurrently in a TRS and PERS position, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS or PERS according to the following tables:

Former TRS Plan 1 Members ^u

| Type of Employment ^u | Type of Employer(s) | System You Will Be Reported In |
|--|-------------------------------------|---|
| A substitute or less than full-time teaching position and a PERS-eligible position | Same employer | PERS - for both positions. |
| | Separate TRS employers | PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and choose to establish TRS membership under RCW 41.32.240. If you choose to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS. |
| | A TRS employer and non-TRS employer | PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and choose to establish TRS membership under RCW 41.32.240. If you choose to establish TRS membership, you must choose either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |
| A full-time teaching position and an eligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. |
| | A TRS employer and non-TRS employer | You must choose to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |

TRS Plan 1 Members

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|---|-------------------------------------|--|
| A full-time or less than full-time TRS position and an eligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. |
| | A TRS employer and non-TRS employer | You must choose either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |
| A full-time or less than full-time TRS position and an ineligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. |
| | A TRS employer and non-TRS employer | TRS - for the TRS position only; your ineligible PERS position is not reportable. |

TRS Plan 2 Members

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|--|-------------------------------------|--|
| An eligible TRS position and an ineligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for TRS position only; your ineligible PERS position is not reported. |
| | A TRS employer and non-TRS employer | TRS - for TRS position only; your ineligible PERS position is not reported. |
| An eligible TRS position and an eligible PERS position | Same employer | TRS - for both positions. |
| | Separate TRS employers | TRS - for both positions. ^{3/} |
| | A TRS employer and non-TRS employer | You must choose either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position. |

PERS Members

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|--|----------------------------|---------------------------------------|
| An eligible PERS position and an ineligible TRS or substitute position | Same employer | PERS - for both positions. |

| | | |
|--|-------------------------------------|--|
| | Separate TRS employers | <p>PERS - for the PERS position only((, unless you qualify for and elect to establish membership in TRS under WAC 415-112-125(1))). <u>Your TRS service will not be reported unless you have met the eligibility criteria for TRS membership and choose to either:</u></p> <p>1. <u>Have your TRS service reported in PERS for both positions^{4/}; or</u></p> <p>2. <u>Establish TRS membership and have your service in both positions reported in TRS. Any previously reported service credit and compensation in PERS will be transferred to TRS.</u></p> |
| | A TRS employer and non-TRS employer | <p>PERS - for the PERS position only. You will not be reported for the TRS position unless you <u>have met the eligibility criteria for TRS membership and</u> choose to either:</p> <p>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions: or</p> <p>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</p> |

Neither TRS Nor PERS Member

| Type of Employment ^{2/} | Type of Employer(s) | System You Will Be Reported In |
|--|------------------------------------|--|
| An ineligible TRS and an ineligible PERS position | Same employer | TRS - for both positions if the positions combined, qualify as an eligible position. |
| | Separate employers, TRS or non-TRS | Neither position reported. |
| A substitute teaching position and an ineligible PERS position | Same employer | Neither position reported. However, if you qualify, you may choose to establish membership in TRS for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140. |
| | Separate employers, TRS or non-TRS | Neither position reported. However, if you qualify, you may choose to establish membership in TRS for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140. |

^{1/} "Former TRS 1 member", as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same time period.

^{3/} EXAMPLE: A TRS Plan 2 member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS Plan 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS Plan 2.

EXAMPLE: A TRS Plan 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS Plan 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS Plan 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

^{4/}This provision applies retroactively to July 1, 1996.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.32.010 (TRS); RCW 41.40.010 (PERS).

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Full time" - RCW 41.32.240.

(d) "Ineligible position" - WAC 415-112-015 (TRS); RCW 41.40.010 (PERS).

(e) "Member" - RCW 41.40.010.

(f) "Membership" - RCW 41.40.023.

(g) "Report" - WAC 415-108-0104.

(h) "Service" - RCW 41.40.010.